

## Message Text

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ACTION COME-00

INFO OCT-01 EUR-12 ISO-00 EB-08 OMB-01 TRSE-00 STR-07

CIAE-00 INR-10 NSAE-00 L-03 SP-02 OPIC-03 /047 W

-----045564 111507Z /42

R 111421Z AUG 78

FM AMEMBASSY MADRID

TO SECSTATE WASHDC 5715

INFO AMCONSUL BARCELONA

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E.O. 11652: N/A

TAGS: ETRD, EINV, SP

SUBJECT: PROBLEMS FACED BY U.S. BUSINESSMEN IN SPAIN

REF: STATE 184189

1. SUMMARY: RESPONDING TO OUR REQUEST, THE AMERICAN CHAMBER OF COMMERCE IN SPAIN PROVIDED THE EMBASSY WITH INFORMATION ON PROBLEMS FACED BY US BUSINESSMEN IN SPAIN. THE INFORMATION INDICATES THAT US BUSINESSMEN ARE UNCERTAIN OF HOW THE EVOLVING POLITICAL TRANSFORMATION TO DEMOCRACY WILL BEAR ON THE FUTURE ROLE OF THE PRIVATE SECTOR IN SPAIN. IN ADDITION, THE CHAMBER FEELS THAT A GREATER DEGREE OF RECIPROCITY SHOULD BE OBTAINED AS BETWEEN THE TREATMENT OF FOREIGN INVESTMENT IN THE US AND IN OTHER COUNTRIES, NOTES CERTAIN CRITERIA FOR THE ENTRY OF FOREIGN MAJORITY-OWNED COMPANIES AND CERTAIN OTHER LIMITATIONS ON BUSINESS ACTIVITIES BUT CONCLUDES THAT THE GENERAL ATTITUDE OF THE GOS TOWARD FOREIGN INVESTMENT IS GOOD. THE CHAMBER ALSO NOTES THE DISCRIMINATORY ASPECTS OF THE SPAIN/EC PREFERENTIAL TRADE AGREEMENT. THE EMBASSY COMMENTS ON THESE CONCERNS AND CONCLUDES THAT THERE ARE NOT AT THIS TIME PROBLEMS OF A SUFFICIENTLY RESTRICTIVE OR DISCRIMINATORY NATURE TO WARRANT RAISING IN THE CONTEXT OF THE LIMITED OFFICIAL USE

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JOINT ECONOMIC COMMITTEE ALTHOUGH WE DO RECOMMEND A GENERAL COMMENT THAT GOS ADMINISTRATIVE ACTIONS CONCERNING TRADE BE HANDLED JUDICIOUSLY AND EVEN-HANDEDLY. END SUMMARY.

2. PER REFTTEL, WE REQUESTED FROM THE PRESIDENT OF AMERICAN CHAMBER OF COMMERCE IN SPAIN (WHO IS ALSO

PRESIDENT OF EUROMED COUNCIL) INFORMATION CONCERNING  
PROBLEMS FACED BY US BUSINESSMEN IN SPAIN.

3. RESPONSE INDICATES, NOT UNEXPECTEDLY, THAT US  
BUSINESSMEN ARE UNCERTAIN ABOUT HOW THE EVOLVING POLITICAL  
TRANSFORMATION TO DEMOCRACY WILL BEAR ON THE FUTURE ROLE  
OF THE PRIVATE SECTOR IN SPAIN. NOTABLY, THIS  
UNCERTAINTY IS NOT EXPRESSED IN TERMS OF FOREIGN VS.  
DOMESTIC PRIVATE SECTOR INVESTMENT, BUT RATHER IN TERMS  
OF THE PRIVATE SECTOR ROLE GENERALLY, WITH THE FUTURE  
DEGREE OF NATIONALIZATION THE PRINCIPAL QUESTION.  
BUSINESSMEN AWAIT THE NEW CONSTITUTION, THE RESULTS OF  
ANTICIPATED DOMESTIC AND NATIONAL ELECTIONS, THE NEW  
TAX REGIME AND APPROVAL OF THE ENERGY AND STEEL PLANS  
AS IMPORTANT CLARIFYING FACTORS.

4. THE CHAMBER ALSO FEELS THAT THERE IS "DISCRIMINATION"  
AS BETWEEN THE TREATMENT OF FOREIGN INVESTMENT IN THE US  
AND THE TREATMENT OF FOREIGN INVESTMENT (INCLUDING US)  
IN OTHER COUNTRIES, INCLUDING SPAIN. RECOGNIZING THAT  
CONTROLS AND REGULATION OF FOREIGN PRIVATE SECTOR  
INVESTMENT IN THE US ARE MINIMAL, IT IS THE VIEW OF THE  
CHAMBER THAT A GREATER DEGREE OF "RECIPROCITY" SHOULD  
BE OBTAINED FROM FOREIGN COUNTRIES.

5. REGARDING SPAIN SPECIFICALLY, THE CHAMBER NOTES THAT  
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THE CONDITIONS ON INVESTMENT WHICH IS MAJORITY-OWNED BY  
FOREIGNERS GIVES THE GOS A "GREAT DEGREE OF CONTROL OVER  
ECONOMIC AND INDUSTRIAL DEVELOPMENT", (PLEASE SEE MADRID  
8370, 1977 AND MADRID 1480, 1978 FOR DETAILS ON THIS  
LIBERAL INVESTMENT REGIME).

6. THE CHAMBER ALSO MENTIONED AS PROBLEMS THE  
LIMITATIONS ON THE AMOUNT OF DIVIDENDS WHICH ANY COMPANY  
IN SPAIN MAY DECLARE WHICH INDIRECTLY LIMITS THE  
REPATRIATION OF FUNDS BY FOREIGN FIRMS, GUIDELINES ON  
THE TERMS OF TECHNICAL SERVICE, PATENT AND COPYRIGHT  
AGREEMENTS, THE UNEQUAL APPLICATION AS BETWEEN FOREIGN  
FIRMS AND SPANISH FIRMS OF OFFICIAL CREDIT AND SUBSIDY  
PROGRAMS TO PROMOTE INDUSTRY AND THE FACT THAT US  
CONTROLLED FIRMS PAY THEIR TAXES WHILE MANY SPANISH  
FIRMS DO NOT. IN THE AREA OF SOCIAL OBLIGATIONS, THE  
CHAMBER NOTES THAT IT IS MORE DIFFICULT TO REDUCE THE  
WORK FORCE IN SPAIN THAN IN THE US AND THAT THE CRITERIA  
FOR FIRING FOR CAUSE ARE MORE STRINGENT IN SPAIN. IT IS  
ALSO NOTED BY THE CHAMBER THAT US COMPANIES ARE EXPECTED  
TO OBEY THE RULES AND REGULATIONS WHILE THERE IS GREATER  
FLEXIBILITY FOR THE "POOR" SPANISH FIRMS.

7. IN SUM, THE CHAMBER'S VIEW IS THAT WHILE THESE CONTROLS CAN CAUSE SERIOUS PROBLEMS WITH OPERATIONS, THE "GENERAL ATTITUDE TOWARD THE (FOREIGN) INVESTOR IS GOOD" AND "THE GOVERNMENT IS USUALLY RESPONSIVE TO VALID REQUESTS FOR SPECIAL TREATMENT IF THE BENEFITS ARE ORIENTED TOWARD SPAIN".

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CIAE-00 INR-10 NSAE-00 L-03 SP-02 OPIC-03 /047 W  
-----045607 111508Z /42

R 111421Z AUG 78  
FM AMEMBASSY MADRID  
TO SECSTATE WASHDC 5716  
INFO AMCONSUL BARCELONA

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8. ON THE TRADE SIDE, THE CHAMBER NOTES THE DISCRIMINATORY EFFECT OF THE SPAIN-EC PREFERENTIAL TRADE AGREEMENT AND THE RELATIVELY SLOWER PROCESSING OF DOCUMENTATION COVERING NON-SPAIN/EC TRADE.

9. COMMENT: UNCERTAINTY IS NORMALLY FELT WHEN ONE MOVES FROM A GENERALLY PROTECTED AND PREFERRED POSITION TO THE UNKNOWN AND THIS IS THE CASE FOR PRIVATE BUSINESS IN SPAIN AS WE PROCEED TO A MORE MARKET-FORCES ORIENTED ECONOMY UNDER THE NEW DEMOCRATIC REGIME. IT IS IMPORTANT TO THIS PROCESS THAT THESE UNCERTAINTIES BE REDUCED; BUT THE GOS IS FULLY COGNIZANT OF THIS AND IS PROCEEDING AS RAPIDLY AS POSSIBLE, GIVEN THE POLITICAL AND ECONOMIC CONSTRAINTS. THE CHAMBER'S COMPARISON OF CONDITIONS OF INVESTMENT IN THE US AND ELSEWHERE IS INTERESTING BUT DOES NOT SUGGEST ANY COURSE OF ACTION WHICH WOULD BE HELPFUL TO THE TRANSITION PROCESS. WE DO NOT FIND THE CRITICISM OF THE PRESENT INVESTMENT REGIME PERSUASIVE, AS A READING OF REFTELS WILL SUBSTANTIATE. NOR IS IT APPARENTLY SO WITH FOREIGN INVESTORS SINCE THE LEVEL OF FOREIGN PRIVATE INVESTMENT

INCREASED SUBSTANTIALLY IN 1977 OVER 1976 WITH THE  
TREND IN 1978 THUS FAR ALMOST DOUBLING LAST YEAR'S  
RATE, WITH US INVESTMENT COMPRISING ABOUT HALF.  
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SIMILARLY, THE REQUIREMENTS MENTIONED IN PARA 6 ARE  
NOT UNDULY RESTRICTIVE, ARE NEEDED AND, IN ANY CASE,  
ARE ADMINISTERED IN A NON-DISCRIMINATORY MANNER.  
FURTHERMORE, WE EXPECT THAT THESE WILL BE ADDRESSED BY  
THE GOS AS CONDITIONS PERMIT. THE DISCRIMINATORY ASPECTS  
OF THE SPAIN/EC PREFERENTIAL AGREEMENT, WHILE REAL, ARE  
WELL KNOWN AND, OF COURSE, WERE RAISED WITHOUT SUCCESS  
BY THE US IN THE GATT CONTEXT AT GENEVA WHEN THE  
AGREEMENT CAME INTO FORCE IN 1970. WE DO NOT BELIEVE  
IT USEFUL TO FLAY THAT HORSE AGAIN AT THIS JUNCTURE.  
TWO OTHER RECENT PROBLEMS WERE AN ADMINISTRATIVE DELAY  
IN ISSUING LICENSES FOR WOOD-PULP IMPORTS WHICH IS NOW  
ESSENTIALLY RESOLVED (MADRID 8175), THOUGH WE RAISED  
THIS WITH THE SPANISH IN THE GATT COUNCIL IN JULY  
(MADRID 8297), AND THE INTEREST OF THE GOS IN  
PROTECTING, BY TARIFF, ITS INFANT COMPUTER MANUFACTURING  
INDUSTRY. IN THE LATTER CASE THE GOS RESPONDED TO OUR  
REPRESENTATIONS BY ESTABLISHING A WORKING GROUP TO  
DIFFERENTIATE BETWEEN COMPUTER EQUIPMENT MANUFACTURED  
LOCALLY AND OTHERWISE, SO THAT THE PROPOSED DUTY WOULD  
BE APPLIED ONLY TO THOSE ITEMS COMPETING WITH LOCAL  
MANUFACTURES. OUR CONCLUSION IS THAT THERE ARE NOT AT  
THIS TIME PROBLEMS OF A SUFFICIENTLY RESTRICTIVE OR  
DISCRIMINATORY NATURE AS TO WARRANT RAISING THEM IN  
THE CONTEXT OF THE JOINT ECONOMIC COMMITTEE. REGARDING  
THE IMPACT OF SPANISH ENTRY INTO THE EC, THERE IS AS YET  
NO MEANINGFUL FEEDBACK FROM US BUSINESSMEN HERE SINCE  
THE TERMS AND CONDITIONS ARE NOT YET KNOWN. SINCE THE  
UPCOMING JOINT ECONOMIC COMMITTEE MEETING WILL BE THE  
FIRST IN WHICH THE SPANISH DELEGATION WILL BE LEAD BY  
MR. ALDASORO, ASST SEC KATZ MAY WISH TO CONGRATULATE THE  
GOS ON ITS SHIFT TO MORE MARKET-ORIENTED ECONOMY,  
EXPRESS SATISFACTION WITH THEIR NON-DISCRIMINATORY  
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APPROACH AND URGE THAT ANY ADMINISTRATIVE TRADE  
MEASURES IN RESPONSE TO SPANISH POLITICAL AND ECONOMIC  
REQUIREMENTS BE HANDLED IN A JUDICIOUS AND EVEN-HANDED  
MANNER. TODMAN

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## Message Attributes

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